

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 96-0513 WTH

Withholding Tax

For Tax Period: 1993 Through 1994

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ISSUE

I. Withholding Tax

Authority: IC 6-3-4-8

Taxpayer protests the assessment for withholding taxes on wages paid to bingo volunteers.

STATEMENT OF FACTS

Taxpayer had previously been granted not-for-profit tax exempt status by the Department. After an investigation, the Department revoked the taxpayer's not-for-profit tax exempt status. (See LOF 29970480). During the investigation, the Department found taxpayer had not withheld Indiana adjusted gross income tax and county adjusted gross income tax from wages paid to volunteers who worked taxpayer's bingo games. Taxpayer protested this finding and the subsequent assessment of withholding tax liability. Additional relevant facts will be provided below, as necessary.

I. Withholding Tax

DISCUSSION

Taxpayer contends it did not withhold taxes from wages because it did not pay its volunteers and employees. Taxpayer argues they were paid by other entities. Taxpayer submitted to the Department copies of Federal 1099 and 1096 forms filed by various entities intending to show those entities had paid

the employees. However, the Department does not accept these forms as proof taxpayer did not pay the wages.

The Department relies on the facts and findings from a prior court case involving the taxpayer. In that case, decided by the Court of Appeals of Indiana, November 20, 1996, the Department's decision to revoke the taxpayer's bingo license was affirmed. The court stated as fact that "located within the building. . . along with [taxpayer] were several other satellite companies which paid nothing for rent, utilities, or maintenance. These businesses. . . were all owned by [taxpayer] officers, relatives of [taxpayer] officers, or members of [taxpayer]." The appellate court went on to state as fact:

Many of [taxpayer's] volunteer bingo workers received paychecks from one or more of the aforementioned companies. Some of these workers are employed by the companies and work as bingo volunteers for [taxpayer]. Others are not employees of the companies and have no explanation for the paychecks other than that they believed they were being paid to work at the bingo games. The owners of the companies had no explanation for these paychecks.

As the taxpayer was a party in the above-referenced decision, the cite has been withheld.

Taxpayer argues submission of the 1099s and 1096s establishes that the bingo workers were paid by entities other than the taxpayer. However, the Department finds the passage of bingo workers' wages through the satellite companies was simply an attempt to avoid outright violation of the Indiana Code as it pertains to charity gaming. The satellite companies were for all intents and purposes part of taxpayer's operation.

FINDING

Taxpayer's protest is denied.